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**VBH BOT FYI Legal**1 message

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**Robert Kosin <rkosin@barringtonhills-il.gov>****Mon, Apr 4, 2011 at 7:19 AM**

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Recently overhauled laws on open records face backlash  
In ways large and small, proposals before Legislature would curtail access  
By David Kidwell, Chicago Tribune reporter  
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[PHOTO] Former Alsip Police Chief Rick Dalzell, above, submitted 90 public record requests in one day last year amid a feud with Alsip Mayor Patrick Kitching. At Kitching's request, a bill has been filed in the state Senate that could limit such future requests. Dalzell said many of the records he sought that day — such as meeting minutes and village ordinances — should have been available without a formal records request. (March 23, 2011)

A little more than a year after Illinois lawmakers rewrote open records laws promising a new era of transparency and accountability, frustrated mayors, school superintendents and police chiefs are back in Springfield, looking to undo many of the provisions.

More than three dozen bills — from minor tweaks to major overhauls — were filed this year to change the state Freedom of Information Act (FOIA), most with the goal of reducing access to records.

"Look, we are not trying to stop any legitimate claims for information," said Alsip Mayor Patrick Kitching, who asked his state senator to file a bill that could limit the rights of political enemies to inundate agencies with records requests.

"It gets to a point where people in the office can't do the public's business. We've been paralyzed by someone who is using FOIA as a weapon," Kitching said, referring to a stack of 90 records requests his village received one day last year from a former police chief and Village Board candidate locked in a bitter political feud with the mayor.

Kitching's bill — filed by Sen. Edward Maloney, D-Chicago — would limit the rights of "vexatious" records seekers to appeal a denial and give governments more time to answer them. It is among a handful of proposals that open records advocates, media lobbyists and Attorney General Lisa Madigan say they are braced to fend off.  
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"Really? That's how you deal with a single complaint? You pass a new law?" said Ann Spillane, chief of staff to Madigan, who was made guru of public records disputes as part of the FOIA overhaul enacted Jan. 1, 2010. "This office is prepared to fight any legislation we feel will scale back the revisions to the Freedom of Information Act."

But many government leaders and their lobbyists say it is more than one complaint, and that the laws designed to make access easier also have taken a toll on privacy and cost taxpayers in staff time, copying expenses and legal bills.

Among the proposed changes before the Legislature are exemptions to make secret such things as birth dates of public employees, the identities of park program participants, the performance evaluations of some government contractors and any record that might identify applicants for public jobs.

There are also proposals to defray government costs by making access to records more expensive. One would let governments post records online instead of making copies, and another would allow them to charge for retrieving records archived off-site.

Many of the most sweeping proposals were filed in one bill, co-sponsored by Sens. David Koehler, D-Peoria, and Pamela Althoff, R-McHenry, that would have eliminated the new requirement that agencies seek permission from Madigan's office before they can deny records based on privacy or preliminary-draft exemptions. The bill also would have ended the new provision requiring the first 50 photocopies of a records request to be free.

Althoff, a former McHenry mayor, filed the bill at the request of lobbyists for school administrators and has since pulled it back to negotiate its provisions.

"Look, it was apparent almost from the day the new FOIA bill passed last year that there were going to be problems," she said. "We are not trying to undermine open records in this state. I believe there are no secrets in local government."

She said she is part of a working group that includes lobbyists from the Illinois Municipal League, which opposed the new records law, and Madigan's office, which argues too many of the proposals are knee-jerk reactions.

In Alsip, former Police Chief Rick Dalzell laughed when told that his 90-in-one-day request for records became the subject of the proposal to restrict "vexatious" records seekers.

"I guess I'd rather be remembered for the Nobel Peace Prize, but that's OK," Dalzell said. "I was a policeman for 28 years, I don't embarrass easily."

Dalzell said many of the records he sought that day — such as meeting minutes and village ordinances — should have been available without a formal records request.

"If they were more open and transparent, then I wouldn't have to file requests," he said. "I told them to take as much time as they needed."

Some open records advocates say most of the burden on local governments could be overcome inexpensively by storing records in a way that makes them easier to retrieve — such as keeping private information on a separate page.

"That's a great idea," said Brian Day, a municipal league attorney.

"Now tell me who's going to pay for it. It's not like we can afford to overhaul all our computer systems."

Terry Pastika, executive director of the Citizen Advocacy Center, a group that helps people write records requests, said there are ways to better comply with the law that don't cost governments any time or money.

"Just because we changed the law, doesn't mean we changed the culture," she said. "We have to instill the idea that these records do not belong to the public agencies. They belong to the people who paid for them."

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